

IN RE: KENTUCKY RIVER AUTHORITY

**MEETING NO. 142**

November 19, 2008  
1:00 P.M.  
Hall's Restaurant  
1225 Athens Boonesboro Road  
Winchester, Kentucky

**APPEARANCES**

Mr. Robert Ware  
CHAIRMAN

Mr. Randall Christopher  
Judge Executive Ted L. Collins  
Mr. Warner J. Caines  
Mr. Daryl E. Newby  
Mayor Michael D. Miller  
Dr. Donald C. Haney  
Mr. Paul Gannoe  
Proxy for Secretary Jonathan Miller  
Ms. Valerie Hudson  
Proxy for Secretary Len Peters  
Mr. R.C. Day  
Mr. Rex Morgan  
Mr. Tim Hazelette  
MEMBERS OF THE KENTUCKY  
RIVER AUTHORITY

Mr. Stephen Reeder  
EXECUTIVE DIRECTOR

Mr. Don Morse  
Mr. David Hamilton  
Mr. Earl Gulley  
Ms. Sue Ann Elliston  
KENTUCKY RIVER AUTHORITY STAFF

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### **MOTION TO APPROVE MINUTES OF MEETING #141 .....PAGE 3, LINE 7**

CHAIRMAN WARE: First of all, I will call for an approval of the minutes of our last meeting.

MR. MILLER: So moved.

CHAIRMAN WARE: I have a motion for approval.

DR. HANEY: Second.

CHAIRMAN WARE: Got a second. All in favor, let it be known by saying aye. Any opposition? Motion carries.

### **MOTION TO APPROVE FINANCIAL REPORT .....PAGE 8, LINE 1**

CHAIRMAN WARE: Does anybody have any questions of Don? If not, I will entertain a motion to approve the Financial Report.

MR. COLLINS: So moved, Mr. Chairman.

CHAIRMAN WARE: I have a motion. Do I have a second?

DR. HANEY: Second.

CHAIRMAN WARE: And a second. All those in favor, let it be known by saying aye. Any opposition? Motion carries.

### **MOTION TO SEEK LIQUIDATED DAMAGES ON DAM 9 PROJECT OF \$5,000 A DAY FROM CONSTRUCTION CONTRACTOR ON NONCRITICAL ITEMS IF NOT FINISHED TIMELY .....PAGE 21, LINE 6**

MR. DAY: Are you asking for something from us to support you when you tell them, hey, you've got to pay it, guys?

MR. REEDER: No; but if you want to give it to me, you know.

MR. DAY: I will. We support you in seeking the \$5,000 a day liquidation damages.

MR. REEDER: If they don't finish.

MR. DAY: If they don't finish timely.

MR. REEDER: If they don't finish timely. And I would qualify that by saying on the noncritical items. I'll negotiate that as long as it does not relate to the security of the dam.

DR. HANEY: You need a second.

CHAIRMAN WARE: R.C., we will take that as a motion.

DR. HANEY: Second.

CHAIRMAN WARE: And Don seconds that. Any further discussion on that motion?

MR. GANNOE: Can I just make a comment?

CHAIRMAN WARE: Sure.

MR. GANNOE: As kind of the party who works with the folks who made that commitment in that meeting, I found out about that in a subsequent meeting, sort of a management team meeting, and I was not happy with hearing that. Joe, the fellow who made that commitment in that meeting, he came up to me afterwards and said, I can see you weren't happy with how that took place.

So, he and I have discussed that since then, and I'm in agreement with you, Steve. I think certainly at this point to have made that offer, it was not really prudent. We're way too far away from the end of the project to tell someone that we're not going to invoke liquidated damages.

That said, I agree with you. I think if critical items are complete and we're looking at a couple of loose ends just to wrap up, that's a different story. But in my opinion, and I think our Commissioner's Office would support that, I think we're not--well, we don't want to give that leverage up certainly this early.

And I guess I mention that to say that I would support this motion as a Finance Cabinet representative.

MR. REEDER: Thank you, Paul.

MR. CAINES: Can I make a comment?

CHAIRMAN WARE: Sure, Warner.

MR. CAINES: This project had so many days, I'm sure, to complete. And if it was bad weather or delays of some nature that couldn't be helped by the contractor, I would feel different, but they've had good working weather the last two summers. And it probably goes back to the fact that they just didn't put enough people on the job.

DR. HANEY: They certainly had good weather.

MR. REEDER: Work double shifts also.

CHAIRMAN WARE: Well, particularly with the river, anything that relates to river hydrology, they need to work in good faith right now while we still have low river levels. If it doesn't entail pouring concrete and stuff in cold temperatures, I think they need to get as much done now as they can.

MR. REEDER: The liquidated damage clause is pretty standard that's in that contract. It's in any kind of contract. Act of God like a flood or a tornado or an earthquake is an exclusion. If we're the fault of it, if we change something to create extra time on it, that's another exclusion.

Another exclusion would be that if they have a subcontractor or a supplier that doesn't deliver because of a strike, for example, or something like that, then liquidated damages can be forgiven, but those things don't exist in this particular case.

MR. CAINES: One more point. The next contractor that didn't get the bid could have taken those factors into consideration and it's not fair to the bidders.

MR. REEDER: That's exactly right. That's exactly right. That was the old argument. I don't want to get off on my old days, but in the Highway Department, there would always be somebody, particularly on a rural road, and they would say, you know, we just lack 100 yards getting this road over to this next point over here. Now, you know, we could easily just change order this. That's not what they bid on. The other guy that lost that bid might have had a whole different bid if he put that extra 100 yards in there.

Now, if somebody made a 50-foot mistake, we could change that. So, that's the way we always handled that. But change orders and liquidated damages and that kind of thing is something you've got to ride a pretty good herd on within the scope of the contract.

CHAIRMAN WARE: We're not cutting off our nose to spite our face with regard to the contract on 3, are we?

MR. REEDER: No. I think on the contrary. I believe that on 3, that you could look at the schedule, and if that schedule was inadequate

when the engineers need to look -- and I thought about that -- need to go back and look at it, the designers, and say is this schedule realistic; if it's not, then, put the right time limit in it to start with.

CHAIRMAN WARE: I just didn't want to be scaring away potential contractors for future projects.

MR. REEDER: Right. I don't think you'll scare them away.

MR. DAY: They should know what you've got going in and bid accordingly.

CHAIRMAN WARE: This remediation project that you talk about, Dave, does that fall under this scenario?

MR. HAMILTON: They haven't requested a time extension for it.

CHAIRMAN WARE: So, that's supposed to be completed theoretically by February?

MR. HAMILTON: Right.

MR. GANNOE: You know, the truth is, and I don't mean to belabor this, but Mahan really has cost us a considerable amount of money in oversight in that I don't think we anticipated their running two crews and all the weekend work they've done, which I'm glad they've done to get even to this point; but them doing that has caused us extra construction administration costs with Stantec, and there's still the possibility that they won't meet the schedule which they bid and they knew what it was when they went into it.

So, again, I think the decision to not do that forgiveness of those liquidated damages yet is probably something we need to go back and get.

MR. REEDER: Exactly right. To be exact of what Paul is talking about is that the inspectors presented us with a bill because of these extra shifts, a bill for about eight to nine hundred thousand dollars, and the Finance Cabinet negotiated it back down to a little less than four, I think, but it has cost us money to comply with the way they have administered the contract.

Their work has been good. Their work has been very good, but they've caused us some problems in the background.

DR. HANEY: So, those double shifts weren't

factored into the original contract?

MR. REEDER: No, sir, they were not. See, that's another thing we have to look at. I think Bob's point is we need to look back at 3 before the plans go on the street and see if there's enough time in there based on what happened up here and also that work shift business, Dr. Haney.

CHAIRMAN WARE: Any further comments or questions regarding Mr. Day's motion? If not---

MR. DAY: Question on the motion.

CHAIRMAN WARE: ---I will call for a vote on that. All those in favor, let it be known by saying aye. Opposition by a like sign. Motion carries.

**MOTION TO ELECT RANDALL CHRISTOPHER**

**AS CHAIRMAN OF KRA FOR 2009 .....PAGE 47, LINE 24**

CHAIRMAN WARE: The next item on the agenda, since this is probably our last meeting of the year, is election of officers for next year. I'm finishing my third full term as Chairman. And according to our bylaws, I can't serve an additional term. So, we're going to have to elect a full slate of officers today. I haven't really talked collectively to any of you all. And, of course, we're willing to entertain any nominations, but we'll be looking at a Chairman at this point in time, I guess. And I would open nominations personally by offering or suggesting that Randall Christopher be considered as the Chairman for next year.

MR. DAY: Second.

CHAIRMAN WARE: Randall is currently our Vice Chair. So, I made his name available and R.C. has seconded that. So, Randall is on the table as a candidate for Chairman for next year. Does anyone else want to offer a nomination?

MS. ELLISTON: I'm sorry, but as Chairman, don't you have to let someone else do this?

MR. REEDER: Only if it's him. He's not running.

CHAIRMAN WARE: He said I could.

MS. ELLISTON: As long as he said you could,

I'm fine with that.

CHAIRMAN WARE: I know very little about Robert's Rules of Order, but I was told by a lawyer that I could. And that's offered only if you're willing to accept that nomination, Randall.

MR. CHRISTOPHER: Yes.

MR. MILLER: I make a motion nominations cease.

MR. DAY: So moved.

MR. CAINES: I'll second it.

CHAIRMAN WARE: So, do we have to---

MR. MILLER: And he be appointed by acclamation.

CHAIRMAN WARE: Do we have to call a vote for the motion that the nomination cease, or can we just call a vote on Randall as Chairman for next year?

MR. REEDER: We need the motion for the nomination to cease.

CHAIRMAN WARE: All in favor of that motion, let it be known by saying aye. Any opposition?

MR. DAY: Now we can elect him by acclamation now.

CHAIRMAN WARE: Just a motion for selection of Randall by acclamation.

MR. MILLER: So moved.

DR. HANEY: Second.

CHAIRMAN WARE: We have a motion and a second.

Any further discussion on that? All in favor, let it be known by saying aye. Opposition by a like sign.

Motion carries for Randall Christopher as Chairman for 2009.

**MOTION TO ELECT MIKE MILLER AS VICE-CHAIR  
OF KRA FOR 2009 .....PAGE 50, LINE 4**

CHAIRMAN WARE: Now I'll open the floor for any nominations for Vice-Chairman for 2009. This can come in the form of any recommendations by anyone; or not having a recommendation, if anyone wishes to be considered for that position, we'll consider that.

MR. CAINES: I'd like to make a motion for Mike Miller.



MR. MORGAN: I'll second.

CHAIRMAN WARE: Got a motion and a second for Mayor Mike Miller to be Vice-Chairman for 2009. Any further nominations? If not, I will call for a vote then for Mike Miller as Vice-Chairman for the Authority for 2009.

DR. HANEY: So move.

CHAIRMAN WARE: All in favor, let it be known by saying aye. Any opposition by a like sign. Mayor Miller will be our Vice-Chairman for next year.

**MOTION TO ELECT TED COLLINS AS**

**TREASURER OF KRA FOR 2009 .....PAGE 51, LINE 11**

CHAIRMAN WARE: Any nominations or volunteers for Treasurer?

MR. HAZELETTE: Mr. Chairman, I nominate Judge Collins.

CHAIRMAN WARE: As Treasurer. Okay. We have a nomination for Judge Ted Collins.

MR. MILLER: I'll second that.

CHAIRMAN WARE: And we have a second. Any further nominations? If not, I will call for a vote. All those in favor of Judge Ted Collins as Treasurer for the 2009 year, let it be known by saying aye. Any opposition by a like sign? Congratulations, Judge Collins.

**MOTION TO APPOINT WARNER CAINES AS**

**SECRETARY OF KRA FOR 2009 .....PAGE 51, LINE 23**

CHAIRMAN WARE: And, finally, Secretary. Any nominations or volunteers for Secretary? Warner, would you want to continue in that capacity?

MR. CHRISTOPHER: Can he continue at that?

MR. REEDER: If you elect him, he can take it.

CHAIRMAN WARE: I'll nominate Warner as Secretary.

MR. MILLER: I'll second that.

CHAIRMAN WARE: Any further nominations? If not, we'll call for a vote. All those in favor of Warner Caines as Secretary for 2009, let it be known by saying aye. Any opposition by a like sign?

MOTION TO ADJOURN .....PAGE 61, LINE 21

CHAIRMAN WARE: Anybody in the audience have anything they want to bring before the Board?

I will entertain a motion to adjourn before I turn things back over to Sue Ann.

MR. MILLER: So moved.

1                   CHAIRMAN WARE:           Good afternoon,  
2 ladies  
3 and gentlemen. I'm going to call to order this 142nd  
4 meeting of the Kentucky River Authority.

5                   I don't see any officials to recognize  
6 here yet anyway. Welcome everybody and the Board members  
7 today. I think our agenda is going to be fairly light.

8                   First of all, I will call for an  
9 approval of the minutes of our last meeting.

10                  MR. MILLER: So moved.

11                  CHAIRMAN WARE: I have a motion for  
12 approval.

13                  DR. HANEY: Second.

14                  CHAIRMAN WARE: Got a second. All in  
15 favor, let it be known by saying aye. Any opposition?  
16 Motion carries.

17                  We will have Don Morse give us our  
18 Financial Report.

19                  MR. MORSE: You have in your package a  
20 statement for the month of October. October is kind of a  
21 slow month for us. It's right before the next billing cycle  
22 for fee collections.

23                  If you look at the second page for our  
24 Tier I account and our general operation expenses, we had

1 only a small amount of fee collections that month which came  
2 primarily from the City of Winchester, our local customer to  
3 where we are today.

4                   They do things a little differently  
5 over here. They're one of the few fee payors that actually  
6 make a payment to us at the same time they report their water  
7 use. They got into that habit with the very first billing  
8 cycle and have continued it. It's a very helpful practice  
9 because it saves me a lot of time in trying to send out  
10 reminder notices and things to collect these bills and it  
11 improves our cash flow.

12                   It's something we probably should  
13 consider in changing for all of our fee payors if we ever do  
14 another regulation rewrite, but that piece of information is  
15 something we want to make note of.

16                   The expenditures during the month were  
17 pretty much normal. We had one payment for an old bill from  
18 2007 to the Fuller Mossbarger company for a boat salvage  
19 operation that occurred when a private craft was on Dam 4 in  
20 Frankfort that summer and had to be rescued to avoid more  
21 damage to the craft and possible personal injury.

22                   We waited until we got an insurance  
23 settlement on that occurrence. The owner of the boat was  
24 subject to litigation by the City. They collected on our

1 behalf the amount of the funds that it cost us to do that  
2 operation. And, so, we're just now getting around to  
3 settling that bill.

4 That was the only thing that was out of  
5 the ordinary during the month for that account, and we ended  
6 the month with \$967,000 in the bank.

7 The third page on our Tier II  
8 collections, again, a small amount of actual fee collected.  
9 The only disbursement during the month was the funds that we  
10 had to transfer to the bond trustee in connection with our  
11 recent bond funding. That money is again set aside as an  
12 additional security should we produce a shortfall in revenues  
13 for any reason. It's not particularly pledged to the  
14 bondholders but it was part of the indenture requirements.

15 At some point in the future should the  
16 Authority choose to utilize those funds for another purpose,  
17 that is your option, and the investment income would be  
18 available as well.

19 You will see at the footnote at the  
20 bottom that the actions on the old note issue are still  
21 ongoing. Those won't be retired until the 2nd of December.  
22 That was the first available call date on those notes, and  
23 the interest rates have come back in line.

24 Back in September when we had the

1 severe credit crunch, the interest rates got up a little  
2 above 8% when they've been down to about two and a quarter or  
3 less, and they are back down to that level now.

4                   So, we're in good shape and we will  
5 have additional funds coming back to us from those monies  
6 that we put up in advance for the interest costs.

7                   When they come back, we got a ruling  
8 yesterday that they will have to be utilized for the project  
9 expenses. So, they'll have to go back into the project for  
10 Dam No. 9 and be expended on the project. That's a federal  
11 tax law requirement that we'll have to comply with.

12                   We had initially thought that we would  
13 be able to use those to offset our debt service payment on  
14 the bonds, but they now tell us that's not possible, but six  
15 one, half a dozen the other. If we save money on the project  
16 costs, we've got more money to pay debt service with anyway.

17       So, I just wanted to apprise you of that.

18                   The financing again -- I think we  
19 emphasized this last month -- was a rather significant coo  
20 for the state. It's one of the few times the State of  
21 Kentucky kind of got out of the lead nationally, and we even  
22 made a piece in Time Magazine that week which I was very  
23 pleased with and something I think we can be proud of for the  
24 state.

1                   Not too many states have been able to  
2 do major financings in the last month or so but we were one  
3 of those. So, we can all pat ourselves on the back that we  
4 were progressive for a change.

5                   The lock operations account on page 4,  
6 we're well within budget limits on this for this point in  
7 time of the year. It's hard to believe we're already a third  
8 of the way through our fiscal year, but we are within limits.

9                   However, you all have read in the  
10 papers where there are projections that there will be  
11 shortfalls in our projected revenue for the state in the  
12 current year and, of course, the upcoming year, too, given  
13 the economic outlook.

14                  So, I would really expect that there  
15 will be additional budget cuts for this program. We don't  
16 know exactly how much at this time. There's not been  
17 anything official, but I can assure you that there will be  
18 more cuts. So, we will have to watch those monies rather  
19 carefully.

20                  There was only one capital project  
21 disbursement during the month. We paid the construction  
22 contractor on Dam 9 \$648,000. He is now within about 20% of  
23 completion money-wise on that project and we'll have some  
24 updates on the physical activities of the project later, but

1 that was the only activity on our capital projects this  
2 month.

3 And you have on the back page the  
4 status of all the current contracts we have outstanding. If  
5 anyone has any questions on those, I'll be glad to answer  
6 them. Otherwise, that's all I have to report today.

7 CHAIRMAN WARE: Does anybody have any  
8 questions of Don? If not, I will entertain a motion to  
9 approve the Financial Report.

10 MR. COLLINS: So moved, Mr. Chairman.

11 CHAIRMAN WARE: I have a motion. Do I  
12 have a second?

13 DR. HANEY: Second.

14 CHAIRMAN WARE: And a second. All  
15 those in favor, let it be known by saying aye. Any  
16 opposition? Motion carries. Thanks, Don.

17 Sue Ann, I failed to get a roll call.  
18 Is it just sufficient to let the record show that we have  
19 total attendance and that Paul Gannoe is sitting in for Glenn  
20 Mitchell?

21 MS. ELLISTON: Yes.

22 CHAIRMAN WARE: All right. We'll move  
23 on to the Engineer's Report by Dave Hamilton.

24 MR. HAMILTON: I'd like to begin with



1 an update on the Dam 9 project. As far as recently completed  
2 work, they've got all of the cells completed, the round  
3 cells. Again, for review, there's eight full-size cells and  
4 then seven of the arccells in between, and they have finished  
5 all of those.

6                   The ongoing work is pouring the final  
7 cell which basically ties in the new dam to the south side of  
8 the river which is the Madison County side. They were hoping  
9 to pour that Friday. The river levels kind of ran them out  
10 here in the last couple of days. They pulled a lot of their  
11 equipment off. So, that may be delayed into next week. They  
12 were originally shooting to have that final pour done on  
13 Friday, however.

14                   We had a couple of change orders come  
15 up on the project since we last met. And I think I spoke  
16 about some of these at the last meeting but we've got some  
17 updates on them.

18                   The big change order was regarding the  
19 south closure cell which they are working on now. And  
20 originally I brought it to the Board last month that they had  
21 proposed to the Finance Cabinet and to us as basically a  
22 value engineering package where we split the cost savings.

23                   Well, the Finance Cabinet doesn't have  
24 that in their contract language. So, what we had them do was

1 resubmit it just as a simple change order. This is how much  
2 the original design was going to cost. This is how much  
3 their new design would cost, and then those cost savings  
4 would all come back to the Commonwealth.

5                   So, long story short, the design change  
6 on that resulted in a cost savings on the contract to us of  
7 \$147,967. So, a fairly substantial amount coming back.  
8 And that has been approved, and like I said, that's what they  
9 are working on right now.

10                   A second change order, and I believe I  
11 had brought this up. It was just a couple of days old right  
12 before our last Board meeting. So, we didn't know too much  
13 about it at that time, and it involved some water that was  
14 seeping through one of the cells which forms the north  
15 abutment on the new dam.

16                   And essentially what caused it is all  
17 the cells are full-depth concrete except for the first two  
18 full-size cells up on the Jessamine County side of the river,  
19 and they were designed basically to excavate out to a certain  
20 clay layer, put a small layer of rock and then put concrete  
21 on top of that. Well, where the seepage is coming through is  
22 basically through that rock layer.

23                   As far as the stability of the dam  
24 goes, it's not a concern; but the concern over time would be

1 that those fine materials in that sand and clay layer would  
2 slowly start to work themselves out of the dam and you'd have  
3 some settling.

4                   So, as a remediation, Stantec came up  
5 with a design to essentially weld all the seams in the  
6 sheetpiling for those two cells and then come back with  
7 basically a tar coat epoxy to cover those sheetpilings which  
8 would help with the corrosion over time, and then thirdly  
9 backfill the whole area with a sand layer and a geotextile  
10 fabric which would act as a filter so those fine materials  
11 wouldn't be able to migrate out of that cell.

12                   That change order came through us and  
13 through Finance Cabinet last week, and it was set up as a  
14 time and materials. Basically, C.J. Mahan, the contractor on  
15 the project, gives us a rate for each of the activities, and  
16 it was set up as a time and materials with a not-to-exceed  
17 value of \$84,446.82, and that's another item that they are  
18 currently working on. The welding is what they're working on  
19 right now.

20                   MR. REEDER: Let me explain something  
21 about that. When it initially came in to us that they wanted  
22 a change order for a leak that was on a dam that was still  
23 under construction, I wasn't very enthusiastic about paying  
24 it.

1                   Now, it turned out, and what we had  
2 initially understood was wrong, but what we initially  
3 understood or our assumption was looking at was that Stantec,  
4 our consultant, had changed the plans. And I said, well, if  
5 they changed the plans, that's their dime. They can pay the  
6 \$84,000.

7                   It turned out they did not change the  
8 plans. They had presented this very cure that we're talking  
9 about paying \$84,000 for as one of several options for a  
10 final design, but they didn't select that one.

11                  So, since it's not a deviation from the  
12 final plan, it's not a violation of the law. And, so, we've  
13 got to pay it, you know, but some of you may have been  
14 thinking that this is a brand new dam. What is it doing  
15 leaking? But as far as a legal basis, we've got no way to  
16 really challenge that except to fix it. Is that correct,  
17 David?

18                  MR. HAMILTON: Right.

19                  CHAIRMAN WARE: Is the leakage at those  
20 cells, is it at an elevation where you wouldn't have  
21 anticipated much hydrostatic pressure?

22                  MR. HAMILTON: Yeah. Well, it's part  
23 that and also it sets--the cell, you would think Cell 2 would  
24 be more out in the river, but it's actually, if you look at

1 an aerial shot, Cell No. 2 actually sets way back in the  
2 bank. So, I don't think they anticipated as much hydrostatic  
3 pressure as what they got on it.

4 Part of the problem, too, is when they  
5 went in there and installed it, they didn't really notice  
6 really any seepage until they excavated all the soil on the  
7 downstream side.

8 Now, when I say seepage, you can't see  
9 water moving. You just see a constant wetness there. It's  
10 not an actual flow that you can see with your eyes.

11 DR. HANEY: Did they see that when they  
12 excavated the site to install it?

13 MR. HAMILTON: Yeah. Well, after they  
14 built the cell is when they---

15 DR. HANEY: They didn't see anything  
16 during the construction of the cell?

17 MR. HAMILTON: Well, the other thing  
18 you had there, too, was Cell No. 2 sits upstream of the  
19 auxiliary dam. And, so, when they first built it, you still  
20 had that lagoon area that had the same elevation as the upper  
21 pool. So, at that time, you didn't have any hydrostatic  
22 pressure going across that cell.

23 Well, once they finished the new dam,  
24 and there's a cell that sits between the new dam and the

1 upstream side of the lock gates, so, that essentially  
2 isolated that lagoon that sits between the auxiliary dam and  
3 the new dam.

4                   And once they did that, they started  
5 pumping down that water in that lagoon and that's when they  
6 had that hydrostatic difference between the pool level.

7                   DR. HANEY: You mean, they couldn't  
8 have predicted that, knowing they were going to pump that  
9 lagoon out?

10                  MR. HAMILTON: Well, I mean, it was  
11 partly oversight there that it would have been a problem;  
12 but, again, it was addressed in some of their initial  
13 designs; but for whatever reason, it was taken out.

14                  MR. DAY: It seems to me like you had  
15 two or three options there before the dam construction began.  
16 And who chose the one that we're using; the contractor?

17                  MR. REEDER: The contractor, the guy  
18 that built it is clean. We're dealing with the consultant  
19 here. The consultant, he had several concepts, and then this  
20 is the one they selected to correct the problem. It was the  
21 wrong one.

22                  DR. HANEY: They didn't select anything  
23 then before they started except to excavate and put the  
24 gravel in.

1                   MR. REEDER: They didn't leave anything  
2 open, did they, David?

3                   MR. HAMILTON: No. It wasn't an option  
4 or anything like that when it went out for bid.

5                   MR. REEDER: When it went out for bid,  
6 they had already decided on what the guy was going to build,  
7 but they had considered the better way and rejected it in  
8 their preliminary designs.

9                   DR. HANEY: And the design they  
10 rejected is not an option now?

11                  MR. REEDER: Exactly. It's been  
12 reinstated as a change order.

13                  DR. HANEY: I'd let them pay it.

14                  MR. REEDER: Well, if they submitted a  
15 claim on it or if we--really, the contractor is not who we're  
16 dealing with. But if Stantec submitted a claim to it to  
17 Finance, I believe under those circumstances, I don't think  
18 that they could be held at fault legally for a mistake in  
19 judgment because, on paper, one looks as good as the other.

20                  DR. HANEY: Well, I would kind of think  
21 they're supposed to be the experts.

22                  MR. REEDER: That's what I thought.

23                  MR. DAY: That's what we paid them for  
24 them, isn't it, or what we are paying for.

1 MR. REEDER: We are paying for.

2 DR. HANEY: Well, anytime you remediate  
3 something like that to correct it, it's not going to last.  
4 It's not going to be as good as the original design should  
5 have been. So, we'll be spending money on that the life of  
6 this dam.

7 MR. REEDER: Could be.

8 MR. HAMILTON: Certainly, like you  
9 said, it's not going to be as good as something that was  
10 originally built in the design. Cost-wise, the original  
11 component that would have taken care of the seepage would  
12 have cost quite a bit more than just the remediation.

13 So, up-front money, you're coming out a  
14 little bit better; but like you said, in the long run, if  
15 there's any kind of maintenance that's required---

16 MR. REEDER: They thought they were  
17 saving money, but to have done it the way they initially  
18 conceived it would have cost a little bit more. So, we  
19 probably are not any worse off financially, but it was  
20 something that didn't strike me true at the time until I  
21 looked at it and I don't think we have any grounds to stand  
22 on as a claim.

23 CHAIRMAN WARE: There's not a similar  
24 scenario at 3?



1 MR. HAMILTON: Not at 3. It's a little  
2 bit different.

3 CHAIRMAN WARE: Since there's no  
4 auxiliary dam.

5 MR. HAMILTON: Right. And I believe  
6 there, they've got an actual cutoff, full concrete cutoff.

7 CHAIRMAN WARE: So, it's not like they  
8 learned their lesson on 9 and will apply that knowledge to 3.

9 MR. HAMILTON: Probably not because  
10 they had already--it was a little bit different. Like you  
11 said, at 3, there's a little bit different situation. So, it  
12 wasn't as hard to design around.

13 MR. MILLER: But the other dams that  
14 have locks, they should have learned something on that,  
15 right, like 10 or another one?

16 MR. REEDER: You mean an auxiliary dam.

17 MR. MILLER: Yeah, I mean an auxiliary  
18 dam.

19 MR. REEDER: Yeah. Ten is the other  
20 one. That's the only other one that has one.

21 MR. HAMILTON: So, that's where we  
22 stand on the Dam 9 project.

23 River levels have been amazing for  
24 them. They must have---

1                   MR. REEDER: David, we may want to go  
2 back to 9 just for a second. There is a pending -- and I'm  
3 glad Paul Gannoe is here so I can say this by way of record.  
4 The construction contractor, not the consultant, brought up  
5 at the last meeting that David attended, the last progress  
6 meeting, that their completion of this thing should be in  
7 February. That's when this thing ought to be done by  
8 contract terms.

9                   They brought up the fact that they  
10 might not finish every item before that deadline runs. And,  
11 of course, liquidated damage of \$5,000 a day, I think, kick  
12 in when they don't do that, pre-arranged, pre-agreed-to daily  
13 damages. We're still going to have some discussion with  
14 Finance on that, the Finance engineering staff.

15                  I have never been from a world that  
16 ever let anybody out of liquidated damages. When I was with  
17 the Highway Department for twenty years, we didn't let  
18 anybody out of liquidated damages. The only time they got  
19 out of it was if they went bankrupt and couldn't pay it.

20                  Liquidated damages are carefully  
21 defined by law. You can't have them so high they're  
22 ridiculous because then the courts would declare them to be a  
23 penalty and void liquidated damages or reduce them down to  
24 what's known just as actual provable damages.

1                   But \$5,000 a day for not completing Dam  
2 9 is an absolute pittance because the closure of Toyota one  
3 day or half a day or an hour, you're going to eat up \$5,000  
4 which we're responsible for.

5                   Even though we are a semi-government  
6 agency and have got sovereign immunity, courts are not always  
7 very kind about a planned sovereign immunity. That's sort of  
8 joke. Anybody that is in government or county government or  
9 city government knows that you can't rely on the sovereign  
10 immunity doctrine that they can't be sued with any  
11 reliability.

12                   So, my answer is going to be to that --  
13 and we're going to talk to Joe Meyer and the people in  
14 Finance, Paul -- but my answer is going to be this.

15                   They're working right now on a closure  
16 cell. The closure cell is on the opposite side of the river  
17 from where they started and a closure cell basically seals  
18 the dam up and it makes it secure. There may be some rock  
19 armoring in there that we will add to that. The other  
20 unfinished items would be a pump system, a valving system in  
21 there, a siphon system. That will be an extra item and there  
22 might be one or two clean-up--there's always a bunch of  
23 clean-up items on these projects.

24                   But my answer will be to this is that

1 I'm not agreeable to any liquidated damage forgiveness with  
2 respect to finishing that dam. There's a reason we're doing  
3 that thing and a reason we rushed that project up so that we  
4 could get it done and that was the security of this whole  
5 area for water -- Lexington and part of Jessamine County,  
6 part of Bourbon County, the City of Midway, the Spears Water  
7 District in Jessamine County, part of Scott County including  
8 Toyota.

9                   We've got a real emergency to deal with  
10 here, and I'm not amenable at all to forgiving any kind of  
11 damages or any kind of dates for anybody that doesn't do what  
12 they agreed to do.

13                   Now, on the clean-up items, I might be  
14 negotiable -- the valves, the items that don't relate to any  
15 kind of security.

16                   Now, you go to the Highway Department  
17 and you talk about forgiving somebody on liquidated damages  
18 or releasing them, then, you would be laughed out of the  
19 building literally.

20                   What I understand is that there might  
21 be some interest in letting them stop for the winter and then  
22 restart with a schedule. Well, as long as the schedule  
23 addresses non-critical items, I might be amenable to that. I  
24 don't have a great feeling about that personally.

1                   But my idea is going to be that that  
2 dam before wintertime or during the winter, when it's  
3 supposed to be finished, the dam needs to be finished; and if  
4 somebody has got to pay liquidated damages to get to that  
5 point, then, they're going to have to pay them because we  
6 can't lose that. We've got too much riding on it.

7                   We're the ones that hollered wolf and  
8 went to the Legislature and everywhere else trying to get  
9 this thing pushed up and they bought our arguments.

10                  So, with a legislative session coming  
11 in in January, I don't relish going over there and having  
12 them ask me that question and they say, well, are you done  
13 yet? And then if you're not done, why, then, if somebody  
14 says, well, I understand you forgave the damages, now, you  
15 tell us about that. Well, I'm not going to answer that  
16 question.

17                  Now, if it's a clean-up item, if it's a  
18 pump valve system, something that is inconsequential to  
19 security, that's fine with me, and that's what I will talk to  
20 Finance about and I'll talk to them about it along that line.

21                  I thought you all ought to know about  
22 that because I think the delay of the assessment of  
23 liquidated damages is a very serious matter in any kind of  
24 project, particularly one that's a public safety project.

1 MR. DAY: Are you asking for something  
2 from us to support you when you tell them, hey, you've got to  
3 pay it, guys?

4 MR. REEDER: No; but if you want to  
5 give it to me, you know.

6 MR. DAY: I will. We support you in  
7 seeking the \$5,000 a day liquidation damages.

8 MR. REEDER: If they don't finish.

9 MR. DAY: If they don't finish timely.

10 MR. REEDER: If they don't finish  
11 timely. And I would qualify that by saying on the  
12 noncritical items. I'll negotiate that as long as it does  
13 not relate to the security of the dam.

14 DR. HANEY: You need a second.

15 CHAIRMAN WARE: R.C., we will take that  
16 as a motion.

17 DR. HANEY: Second.

18 CHAIRMAN WARE: And Don seconds that.  
19 Any further discussion on that motion?

20 MR. GANNOE: Can I just make a comment?

21 CHAIRMAN WARE: Sure.

22 MR. GANNOE: As kind of the party who  
23 works with the folks who made that commitment in that  
24 meeting, I found out about that in a subsequent meeting, sort

1 of a management team meeting, and I was not happy with  
2 hearing that. Joe, the fellow who made that commitment in  
3 that meeting, he came up to me afterwards and said, I can see  
4 you weren't happy with how that took place.

5                   So, he and I have discussed that since  
6 then, and I'm in agreement with you, Steve. I think  
7 certainly at this point to have made that offer, it was not  
8 really prudent. We're way too far away from the end of the  
9 project to tell someone that we're not going to invoke  
10 liquidated damages.

11                   That said, I agree with you. I think  
12 if critical items are complete and we're looking at a couple  
13 of loose ends just to wrap up, that's a different story. But  
14 in my opinion, and I think our Commissioner's Office would  
15 support that, I think we're not--well, we don't want to give  
16 that leverage up certainly this early.

17                   And I guess I mention that to say that  
18 I would support this motion as a Finance Cabinet  
19 representative.

20                   MR. REEDER: Thank you, Paul.

21                   MR. CAINES: Can I make a comment?

22                   CHAIRMAN WARE: Sure, Warner.

23                   MR. CAINES: This project had so many  
24 days, I'm sure, to complete. And if it was bad weather or

1 delays of some nature that couldn't be helped by the  
2 contractor, I would feel different, but they've had good  
3 working weather the last two summers. And it probably goes  
4 back to the fact that they just didn't put enough people on  
5 the job.

6 DR. HANEY: They certainly had good  
7 weather.

8 MR. REEDER: Work double shifts also.

9 CHAIRMAN WARE: Well, particularly with  
10 the river, anything that relates to river hydrology, they  
11 need to work in good faith right now while we still have low  
12 river levels. If it doesn't entail pouring concrete and  
13 stuff in cold temperatures, I think they need to get as much  
14 done now as they can.

15 MR. REEDER: The liquidated damage  
16 clause is pretty standard that's in that contract. It's in  
17 any kind of contract. Act of God like a flood or a tornado  
18 or an earthquake is an exclusion. If we're the fault of it,  
19 if we change something to create extra time on it, that's  
20 another exclusion.

21 Another exclusion would be that if they  
22 have a subcontractor or a supplier that doesn't deliver  
23 because of a strike, for example, or something like that,  
24 then liquidated damages can be forgiven, but those things



1 don't exist in this particular case.

2 MR. CAINES: One more point. The next  
3 contractor that didn't get the bid could have taken those  
4 factors into consideration and it's not fair to the bidders.

5 MR. REEDER: That's exactly right.  
6 That's exactly right. That was the old argument. I don't  
7 want to get off on my old days, but in the Highway  
8 Department, there would always be somebody, particularly on a  
9 rural road, and they would say, you know, we just lack 100  
10 yards getting this road over to this next point over here.  
11 Now, you know, we could easily just change order this.  
12 That's not what they bid on. The other guy that lost that  
13 bid might have had a whole different bid if he put that extra  
14 100 yards in there.

15 Now, if somebody made a 50-foot  
16 mistake, we could change that. So, that's the way we always  
17 handled that. But change orders and liquidated damages and  
18 that kind of thing is something you've got to ride a pretty  
19 good herd on within the scope of the contract.

20 CHAIRMAN WARE: We're not cutting off  
21 our nose to spite our face with regard to the contract on 3,  
22 are we?

23 MR. REEDER: No. I think on the  
24 contrary. I believe that on 3, that you could look at the

1 schedule, and if that schedule was inadequate when the  
2 engineers need to look -- and I thought about that -- need to  
3 go back and look at it, the designers, and say is this  
4 schedule realistic; if it's not, then, put the right time  
5 limit in it to start with.

6 CHAIRMAN WARE: I just didn't want to  
7 be scaring away potential contractors for future projects.

8 MR. REEDER: Right. I don't think  
9 you'll scare them away.

10 MR. DAY: They should know what you've  
11 got going in and bid accordingly.

12 CHAIRMAN WARE: This remediation  
13 project that you talk about, Dave, does that fall under this  
14 scenario?

15 MR. HAMILTON: They haven't requested a  
16 time extension for it.

17 CHAIRMAN WARE: So, that's supposed to  
18 be completed theoretically by February?

19 MR. HAMILTON: Right.

20 MR. GANNOE: You know, the truth is,  
21 and I don't mean to belabor this, but Mahan really has cost  
22 us a considerable amount of money in oversight in that I  
23 don't think we anticipated their running two crews and all  
24 the weekend work they've done, which I'm glad they've done to

1 get even to this point; but them doing that has caused us  
2 extra construction administration costs with Stantec, and  
3 there's still the possibility that they won't meet the  
4 schedule which they bid and they knew what it was when they  
5 went into it.

6                   So, again, I think the decision to not  
7 do that forgiveness of those liquidated damages yet is  
8 probably something we need to go back and get.

9                   MR. REEDER: Exactly right. To be  
10 exact of what Paul is talking about is that the inspectors  
11 presented us with a bill because of these extra shifts, a  
12 bill for about eight to nine hundred thousand dollars, and  
13 the Finance Cabinet negotiated it back down to a little less  
14 than four, I think, but it has cost us money to comply with  
15 the way they have administered the contract.

16                   Their work has been good. Their work  
17 has been very good, but they've caused us some problems in  
18 the background.

19                   DR. HANEY: So, those double shifts  
20 weren't factored into the original contract?

21                   MR. REEDER: No, sir, they were not.  
22 See, that's another thing we have to look at. I think Bob's  
23 point is we need to look back at 3 before the plans go on the  
24 street and see if there's enough time in there based on what

1 happened up here and also that work shift business, Dr.  
2 Haney.

3 CHAIRMAN WARE: Any further comments or  
4 questions regarding Mr. Day's motion? If not---

5 MR. DAY: Question on the motion.

6 CHAIRMAN WARE: ---I will call for a  
7 vote on that. All those in favor, let it be known by saying  
8 aye. Opposition by a like sign. Motion carries.

9 MR. REEDER: Thank you.

10 MR. HAMILTON: One other thing I  
11 remembered on Dam 9 and mentioned this at the last meeting,  
12 too, we had been speaking with SHPO regarding the removal of  
13 the lock gates as part of the project. If you will remember,  
14 one of the requirements from them was that we not destroy the  
15 gates. All we were going to be doing was laying them on the  
16 bank.

17 So, we looked into the possibility of  
18 being able to cut those up and selling them for scrap. And  
19 at that time in our conversations, they said, yeah, it  
20 shouldn't be a problem.

21 Well, we finally got that officially in  
22 writing from SHPO. The Corps has also sent an email signing  
23 off on that change. So, we'll probably move forward.

24 I'm not exactly sure how it will shake

1 out. It will probably be a change order again since we've  
2 already said we can't really do a value engineering or  
3 anything like that, but we would be looking back for a credit  
4 for the value of that scrap metal. And it also helps the  
5 contractor as far as them having to bring in an extra large  
6 crane to remove those. That's pretty much it for Dam 9.

7 Dam 3 is pretty much the same situation  
8 as last month. Still dealing with the property owner on the  
9 Owen County side to work out that easement. So, hopefully,  
10 we'll get that nailed out by the next time we meet.

11 The final item here, Steve might want  
12 to preface this a little bit and you should have something in  
13 your package regarding it, and it's the kind of long-term  
14 maintenance plan for the locks and dams.

15 MR. REEDER: I've told David and our  
16 consultant, Stantec, which most of you know as Fuller  
17 Mossbarger -- it's been bought out by somebody else but  
18 Stantec is the name of it now -- but to sit down and take the  
19 list.

20 You are familiar with our dam analysis  
21 program, the Stantec-produced analyzation of all locks and  
22 dams on the river with the exception of 3 and 9 and 10 which  
23 are involved in some form of either replacement or extensive  
24 repair.

1                   So, nine of the locks were analyzed.  
2   Actually, 3 was analyzed because for the record I wanted to  
3   make sure what was wrong with it, but there are remediations  
4   that have been recommended for nine of the fourteen  
5   locations--well, not nine but eleven of the fourteen  
6   locations -- eleven -- everything except 3, 9 and 10.

7                   And that book is a long, thick book.  
8   It's got \$33 million worth of work in it. You obviously  
9   can't wait until it starts falling apart before you do it.  
10   And most of it, it calls for remediation.

11                  Now, David has scaled some of it back.  
12   I've had him look at it, and some of it is probably a little  
13   bit overdone. And then we found just in the last little bit  
14   from Earl and the field crews that there was some work left  
15   out that I think we've kind of agreed now I think that Earl's  
16   crew can do on our own with some engineering assistance from  
17   David and maybe a consultant, but I think David can design it  
18   and it won't cost us a lot of money.

19                  So, you're always finding different  
20   things, but there's \$33 million worth of work in that book  
21   that's got to be addressed at some point. You can't walk to  
22   the Legislature and say give me \$33 million or let me raise  
23   fees for \$33 million on top of what we're doing now at  
24   building--of course, 3 is going to be kind of a freebie

1 because that's going to be done with General Fund bonds.  
2 We're not going to have to pay for that out of our fee money  
3 like we're paying for 9.

4                   But however it is, we've got to figure  
5 out in some way to systematically incorporate that into a  
6 long-term plan, and it's a good working tool not only for us  
7 and the public but also for the Legislature to lay this out  
8 and say, you know, here it is. This is what you can expect  
9 over the next twelve to twenty years. Some of it is not  
10 critical. It's not going to fall in tomorrow but it's got to  
11 be done at some point.

12                   So, David and the consultants have sat  
13 down at my direction and have attempted to prioritize this  
14 work which will be built into future plans, the future  
15 six-year capital construction plan, maybe even squeeze part  
16 of it into this six-year cycle since we're using General Fund  
17 money to pay for Dam No. 3 down there and move some of it up  
18 and prioritize it according to population and the risk of a  
19 loss of one of these structures or partial loss, plus some of  
20 them just on their own are so weak that, whether or not  
21 anybody depends on them, if you're going to keep any kind of  
22 a system, you've got to fix it.

23                   So, what he's going to tell you  
24 about -- and this is just by way of introduction -- it needs

1 no action -- but to show you what he's working on. And then  
2 probably at the next meeting -- we won't have, in all  
3 likelihood unless it's an emergency, we won't have anything  
4 in December but we will be back in January -- we'll have  
5 something maybe for you to look at and approve or right close  
6 so.

7                   And like anything that stretches that  
8 far out in the future, yeah, it's not going to be exact.  
9 It's not going to be something that's written in stone. You  
10 might have to move some of them around or you might have to  
11 add something or whatever, but it's a list that can be worked  
12 on in an order.

13                   And I told him what I would really like  
14 to see is each biennium, you pick up kind of a given amount  
15 of money that you would ask for or ask for the right to spend  
16 it or the right to sell bonds in order to finance it, like  
17 two or three million a biennium or something like that.  
18 Don't hit them with--spread that out for ten or twelve years.  
19 So, that's what this is about.

20                   And we will be back to you. It's just  
21 reducing that big book down to something that you can get  
22 your hands on.

23                   CHAIRMAN WARE: So, is the report  
24 final?



1 MR. REEDER: The report is final now.  
2 It is now final.

3 CHAIRMAN WARE: How big a volume is  
4 that report? Is that something that---

5 MR. REEDER: About like that.

6 CHAIRMAN WARE: So, it's nothing that  
7 each member of the Board needs to receive a copy of then?

8 MR. REEDER: Upon request maybe.

9 MR. HAMILTON: We could possibly get  
10 some excerpts, executive summary, that kind of thing.

11 DR. HANEY: A pre-bedtime type book.

12 MR. REEDER: Somebody like you and Bob  
13 have got plenty of time to read it but I'm not sure about  
14 anybody else. But anybody is welcome to it. It's a public  
15 document now. We've paid for it.

16 MR. HAMILTON: We can inquire about  
17 getting it in some kind of an electronic format. It might be  
18 on a couple of CD's and that would certainly be an easier way  
19 to review it.

20 CHAIRMAN WARE: Is there an executive  
21 summary?

22 MR. HAMILTON: There should be  
23 something that we can get.

24 MR. REEDER: If everybody wants it

1 before we approve it, we'll give it to you. We'll get it to  
2 you.

3 CHAIRMAN WARE: Like I say, if there's  
4 a decent executive summary and these are products of that  
5 report, then, that should be sufficient. I was just wanting  
6 to see something a little bit more concrete than we've  
7 received yet.

8 MR. REEDER: And we've had some  
9 differences, as I said, on a couple of these items where we  
10 thought that maybe it was an overkill and we've reduced it  
11 down.

12 For example, on Dams 1 and 2, you could  
13 spend according to that report to secure those dams, you  
14 could spend about \$15 million on both of them combined.  
15 We will build a new dam before we do that up there. Our  
16 thoughts are that ultimately we'll patch these up; and since  
17 nobody uses them for water, there might somewhere in between  
18 become a brand new dam to replace both of them.

19 But David came up with a way to spend  
20 about a million dollars on both of them and basically address  
21 the same security issues that they have addressed in that  
22 report without doing all of that work.

23 We've got a similar situation at 11 and  
24 12. To those, it's not quite as bad. And David's ideas at 1

1 and 2, they'll probably work at 11 and 12 because they are  
2 better dams. Excuse me, David. Go ahead.

3 MR. HAMILTON: No problem. Like Steve  
4 said, you should have in your package a couple of sheets kind  
5 of laying out the proposal for spreading these projects out  
6 through the year 2020.

7 The first six years there basically up  
8 through 2014 is our current capital construction -- renovate  
9 Dam 9 which obviously is under construction; the cutoff wall  
10 at Lock 10; renovate Dam 3, Locks 3 and 4; construct cutoff  
11 walls at Locks 1 and 2; the addition of crest gates at Dam 9.

12 And kind of the wild card in that whole  
13 six-year plan is what happens at Dam 10 in regards to our  
14 involvement with the project as well as the Corps'  
15 involvement. So, we're not exactly sure how that project  
16 will play out both time-wise and money-wise with that  
17 complication in there of not knowing how that's going to work  
18 out with the Corps.

19 So, then, beginning there at 2012, down  
20 near the bottom of the first page, that's when we get into  
21 these new maintenance projects beginning with Lock and Dams 1  
22 and 2, and that's the armoring that Steve was referring to.  
23 I felt a little more comfortable scaling those projects back  
24 just because there's no water supply in those pools.

1                   Two thousand thirteen, 2014, you move  
2 up to Lock and Dam No. 7. And actually the next biennium has  
3 almost similar type of repairs at Lock and Dam 8 and Lock and  
4 Dam 6. The major part of that repair would be re-driving new  
5 sheetpiling upstream of the dam at all three of those  
6 locations.

7                   One of the questions I wanted to kind  
8 of get your feel for would be, you know, I was kind of given  
9 a limit of try to shoot for two to three million dollars each  
10 biennium. Well, each one of those projects, re-driving the  
11 sheetpiling at 6, 7 and 8, is about a two- to three-million-  
12 dollar project each and there's certainly the possibility of  
13 getting some cost savings there if you were able to package  
14 those all three together and have one contractor bid on it as  
15 opposed to doing one each biennium.

16                  So, I wanted to get a feel for how  
17 strict we wanted to be on that two- to three-million-dollar  
18 biennium limit.

19                  MR. REEDER: What you say makes a lot  
20 of sense because you can't stick with one figure every  
21 biennium. Sometimes it's going to be more or less.

22                  MR. HAMILTON: So, that's certainly  
23 something that could change and that would shorten the time  
24 line here if you could group that 6, 7 and 8 altogether.

1                   After those are complete, you move  
2 upriver to Locks and Dams 12 and 13. And then the final  
3 projects are at Locks and Dams 11 and 14 and Locks and Dams 4  
4 and 5. And those projects are essentially taking care of the  
5 entire repairs that were recommended in the Stantec  
6 assessment report for all of those.

7                   There's a breakdown of costs in that  
8 same table. They have broken out the design costs as well as  
9 the construction so you could see how that breaks out.

10                  The design on any of these projects,  
11 they're not going to be as extensive as a full repair like  
12 we've got at 9. We're typically looking at about six months'  
13 time frame to get projects of this nature designed.

14                  This colored sheet that I handed out is  
15 essentially the same information, just a little bit more of a  
16 summary. It doesn't have quite as much detail or cost  
17 breakdown on it, but you can kind of peruse through that.

18                  It also has on the very right column,  
19 it shows you the priority rankings. The higher the priority  
20 ranking, the more susceptible it was to causing a failure at  
21 each location.

22                  For instance, in Biennium 3, Lock and  
23 Dam 1, Lock and Dam 2, limited armoring, on the very right  
24 column, it says Lock and Dam 1:1. It means that was the very

1 highest priority that Stantec found as far as needing  
2 repairs. So, that gives you a little bit of information  
3 about how those projects were picked out.

4 MR. REEDER: Stantec consultants'  
5 prioritization is strictly on structural considerations.

6 We changed it a little bit because we  
7 had to factor in the people factor, how many people actually  
8 depend on a particular pool in many instances because if  
9 you've got a utility that depends on it, it's obviously more  
10 important than one that may be worse than it is but nobody  
11 uses it.

12 MR. HAMILTON: Like was mentioned  
13 before, it's kind of a first-draft version. So, you can  
14 certainly go over that between now and the next meeting and  
15 certainly there will be some changes between now and then on  
16 it, whether we package some of these projects together, we  
17 decide whether or not to take some of the projects out and  
18 just increase monitoring on it to see if any of the problems  
19 are getting worse. There's obviously some shuffling, too, as  
20 far as moving some projects up the calendar and some down.

21 MR. REEDER: When we consider that, we  
22 want to spend a little time on it and not schedule a lot of  
23 other business along with that because there's some rating  
24 systems that they use in there that are not real easy to

1 understand on the front end.

2                   There's an absolute rating system and  
3 then there's a comparative rating system, and then they've  
4 got over in another column suggested action. A lot of times,  
5 you will find it says continue monitoring or more strict  
6 monitoring. In very few places, they say fix it right now;  
7 but if you're doing it ten years from now, it's a different  
8 matter.

9                   So, we want you to understand what that  
10 is and let you consider it very carefully. And if you've got  
11 something you want to shift that you feel like we've put in  
12 the wrong place, then, that's your decision.

13                   MR. HAMILTON: I believe that's all  
14 I've got.

15                   MR. DAY: May I go back to that Cell 2,  
16 Dam 9 remediation?

17                   MR. HAMILTON: Yes.

18                   MR. DAY: That bothers me a little bit.

19 And just as a matter of record and have it put in the  
20 record, it seems like that--what's the name of the company?

21                   MR. REEDER: Stantec.

22                   MR. DAY: Stantec. Okay. It seems to  
23 me like that they might be getting away with a little  
24 something here. Were there not core drillings done to show

1 that that strata---

2 MR. HAMILTON: Well, it's not so much  
3 the core drilling. It was more the actual design of it.

4 DR. HANEY: Why did they select that  
5 particular clay zone?

6 MR. HAMILTON: Well, it's just as far  
7 as the depth, how far they went down.

8 DR. HANEY: It's not that far to  
9 bedrock there.

10 MR. HAMILTON: I'll have to check to  
11 see how much they lacked of doing like a full concrete pour.

12 DR. HANEY: Well, I suspect the bedrock  
13 there is the same as it is in the river because that river  
14 has moved back and forth.

15 MR. REEDER: David, what was the  
16 difference in the price had they selected that particular  
17 option to put it in the final design as versus this change  
18 order?

19 MR. HAMILTON: I'd have to check on  
20 that to see what it was.

21 MR. REEDER: That was one of the  
22 arguments that was brought up. I was looking at it myself  
23 just legally. It wasn't part of the final design. So, if  
24 it's not part of the final design, then, no matter whether



1 they made a bad judgment or not, it would be hard to hold  
2 them for violating or for recommending something. And that's  
3 just the law part of me coming out if I had to deal with it.

4 DR. HANEY: It's very ironic that, you  
5 know, a freshman in college knows if you've got a saturated  
6 area here, a saturated area here, you drain this one, water  
7 is going to move.

8 MR. DAY: It seems to me that maybe  
9 they glossed over this. Maybe it came Friday and they wanted  
10 to get home on Sunday and they went over it real quickly. I  
11 think we should talk to them. In other words, maybe Mr.  
12 Reeder and our engineer here could---

13 MR. REEDER: See why they did it.

14 MR. DAY: Yes. They've got the problem  
15 down at Wolf Creek Dam now. They knew that that limestone  
16 was soluble before they put that doggone thing in there. We  
17 don't want to come back a few years from now and -- I think  
18 you said \$84,000. Well, when you're talking about a dam of  
19 \$17 million, that's not a whole lot of money. It's more than  
20 I've got -- maybe more than we've got -- and I think the  
21 issue needs to be brought out and talked to somebody about  
22 it.

23 MR. REEDER: We'll come back to you  
24 with that. We'll do that and find out what the difference

1 between what it would have cost to have done it the way that  
2 now they're going to do it versus the original. It would be  
3 good information.

4 CHAIRMAN WARE: I guess it would be  
5 appropriate to have Mr. Avery or somebody address the Board  
6 and explain why there was that technical oversight.

7 MR. REEDER: That would be all right.  
8 We can bring one of them up here. We won't bring Avery. He  
9 retired.

10 MR. DAY: I think they need to know  
11 that, hey, we're not just sitting here for the money we get  
12 out of this. We're interested in what they are doing to  
13 ensure a project's endurance.

14 MR. REEDER: We were talking in-house  
15 there, staff and said, well, wonder how many other places  
16 these types of decisions got made.

17 DR. HANEY: Steve, they've probably  
18 done more foundation analyses than anyone in this state over  
19 the years.

20 MR. REEDER: Exactly. They did it for  
21 the new highway building.

22 DR. HANEY: They screwed the library up  
23 there at UK and it cost \$7 million to correct.

24 MR. REEDER: They've done more than

1 anybody we know.

2 MR. DAY: Well, they do all of our  
3 work, don't they?

4 MR. REEDER: About 95% of it.

5 MR. DAY: That's pretty close to all.

6 CHAIRMAN WARE: But you say the full  
7 pour option would cost much more than this remediation  
8 project?

9 MR. HAMILTON: Oh, yeah. I can get  
10 those exact numbers.

11 CHAIRMAN WARE: Any guarantees as to  
12 how long this remediation should last?

13 MR. HAMILTON: They think--of course,  
14 once they get up high enough on the remediation, they can go  
15 ahead and get back on their critical path items as far as  
16 re-grading that slope and start to put in their scour  
17 protection and all the rock.

18 So, you're probably looking at, once  
19 they get welded up high enough and get that tar coat epoxy on  
20 there, you're probably looking on the order of a week or so  
21 to get that all done.

22 The biggest thing is the guy that  
23 sprays that epoxy on there, I think he's got like a two-week  
24 mobilization. So, you're probably looking at about two and a

1 half to three weeks to actually get the full thing done where  
2 they can proceed on that part of the work. There's other  
3 stuff that they can be working on right now.

4 MR. REEDER: In the future, it did  
5 spark some talk in the office, this very problem. I said,  
6 well, maybe what we ought to do next time is look at a  
7 traditional dam, a big concrete buttress dam. It's like the  
8 others that are out here now and really something that has to  
9 last this long.

10 It's like a bridge. The Highway  
11 Department typically on major river crossings requires two  
12 conceptual designs of two different types of bridges, and  
13 then they compare costs after that, but also, for example,  
14 they have to consider an iron bridge or a concrete deck  
15 girder type concrete bridge and compare the cost of it but  
16 also compare the adaptability to it in a given situation --  
17 traffic and that type thing.

18 The federal government requires it. It  
19 looks like a waste of money, but in the end, I'm not sure it  
20 is. It may be a better rule than you think.

21 And, so, I think the next one we do  
22 from scratch, we ought to look at two different concepts and  
23 compare them because we know the others last at least a  
24 hundred years.

1                   MR. DAY: Let's use an analogy of the  
2 bridge in Minneapolis, Minnesota that fell. They have now  
3 determined that the design of that sucker was bad. We don't  
4 want to be a part of having a bad design, and I think that  
5 Stantec should be made aware of that.

6                   MR. REEDER: We had the same thing at  
7 the I-24 bridge in Illinois at Paducah and they decided they  
8 would use an experimental steel. Well, it cost about as much  
9 to replace all that steel as it did to build that bridge.  
10 And before it was over with, they had to close that sucker  
11 for about two or three years.

12                   So, there's something to be said for  
13 old designs and traditional things.

14                   CHAIRMAN WARE: Well, the answer to  
15 some of these questions are particularly critical for Dam 9  
16 since we're also proposing to put a \$7.5 million crest dam on  
17 top of it. So, we need to be pretty sure that we're getting  
18 a stable product for the long run.

19                   Dave, I've got one simple question. I  
20 may have missed something along the way, but on letting the  
21 construction bid for Dam 3, that's totally contingent upon  
22 final negotiations of the easement?

23                   MR. HAMILTON: Steve, you can probably  
24 address it better than I can.

1                   MR. REEDER: That thing can be put away  
2 real quickly.

3                   CHAIRMAN WARE: So, it's close?

4                   MR. REEDER: Yes. The property  
5 owner -- and this is something I want to talk to Paul Gannoe  
6 about to see if there's any rules in his Department against  
7 it -- but basically the guy on the Owen County--we own the  
8 property on the Henry County side. We don't own the property  
9 on the Owen County side.

10                  He's very cooperative. He's let us in  
11 there really with just a right of entry before to do about  
12 \$400,000 worth of remedial work. He's not real excited about  
13 letting us in there and let us cross his property under  
14 thirty or forty feet from his house where he lives for two  
15 years with these trucks tearing it up for \$5,700.

16                  Now, I can kind of understand that a  
17 little bit. But what we do need from him if we don't use his  
18 property at all as far as egress and access is he's got a  
19 construction easement that we have to use when they bring the  
20 sonars across the river, and one of them actually will set on  
21 a permanent easement.

22                  We had a little bit of an issue with  
23 how much lines we need, and I think I can get him to sign a  
24 right of entry on--well, not a right of entry--well, a right

1 of entry sufficient enough to let the contract. I believe I  
2 can do that while they settle with him on the money because  
3 he really just doesn't want them in there at that kind of  
4 price.

5 And we can't go much higher under  
6 Finance rules because they have appraised it and that's  
7 probably about what it's worth in that area, but it's a great  
8 inconvenience to him and we can work from the other side.

9 And another thing that hasn't been  
10 taken into account by anybody is that that is on a county  
11 road, an Owen County road. It's at least a mile back there,  
12 and the weight limits on that road are far less than those  
13 weight limits are on those state roads on the Henry County  
14 side next to that quarry.

15 The weight limits on a county road are  
16 36,000 pounds, period, at the best, eighteen tons. It's in  
17 the statute. If we tear that up, we're going to be building  
18 the county a road or somebody is going to be building a road.

19 So, that's another thing that I've constantly said. They  
20 said it lays better. It may lay better; but in the end, it's  
21 going to cost a lot of money.

22 So, I think we have to let the project;  
23 and if the contractors want to work with the county and  
24 rebuild them a road and they think it's a better way or if

1 the contractor wants to deal with this particular property  
2 owner and satisfy him in some other way, that's completely  
3 legal to and they're free to talk to him. It's none of our  
4 business, but---

5 CHAIRMAN WARE: And that issue is the  
6 only thing that's holding up the bid letting?

7 MR. REEDER: Yes, sir. That's it. I  
8 talked to David this morning early on the phone and I said  
9 we've got to talk to Finance and see if they will accept  
10 those rights of entry and go ahead and let that thing.

11 CHAIRMAN WARE: Do you think  
12 realistically it's going to be the first of the year?

13 MR. REEDER: Yeah, but that's okay.  
14 You can't do much work right now anyway but they can  
15 mobilize. That's what they will do probably between now and  
16 April.

17 DR. HANEY: Is the funding for that in  
18 jeopardy?

19 MR. REEDER: The funding could be in  
20 jeopardy if you let it go very far because the bonds have  
21 been sold and you've got two years to spend 90% of it, and  
22 that bothers me. A high water thing or something like that  
23 can jeopardize that Arbitride's IRS provision.

24 We're lucky to get this project to



1 begin with because of the fact that the Administration  
2 released projects that were ready to go, and we depicted this  
3 one as ready to go, and it really is. If it doesn't violate  
4 any great law, I can get those rights of entry in about a  
5 week, but I've got to see whether that's suitable to  
6 everybody, Paul.

7                   You don't want to let the project and  
8 have a piece missing. If they work from the Henry County  
9 side, they're not going to be there for probably a year, but  
10 you don't want to let it without having it all there for  
11 them. This man could die and somebody else get in there and  
12 say, no, you're not coming here at all.

13                   MR. DAY: I think we better proceed.

14                   CHAIRMAN WARE: Any other questions,  
15 comments concerning Dave's presentation? If not, thanks,  
16 Dave.

17                   MR. HAMILTON: We want to recognize the  
18 lock guys, too, here today. There's a lot of new faces on  
19 our Board. Greg Henry, John Asher, John Ashcraft, Rick  
20 Griffith. They are our guys out on the river each day.

21                   CHAIRMAN WARE: The next item on the  
22 agenda, since this is probably our last meeting of the year,  
23 is election of officers for next year.

24                   I'm finishing my third full term as

1 Chairman. And according to our bylaws, I can't serve an  
2 additional term. So, we're going to have to elect a full  
3 slate of officers today.

4 I haven't really talked collectively to  
5 any of you all. And, of course, we're willing to entertain  
6 any nominations, but we'll be looking at a Chairman at this  
7 point in time, I guess. And I would open nominations  
8 personally by offering or suggesting that Randall Christopher  
9 be considered as the Chairman for next year.

10 MR. DAY: Second.

11 CHAIRMAN WARE: Randall is currently  
12 our Vice-Chair. So, I made his name available and R.C. has  
13 seconded that. So, Randall is on the table as a candidate  
14 for Chairman for next year. Does anyone else want to offer a  
15 nomination?

16 MS. ELLISTON: I'm sorry, but as  
17 Chairman, don't you have to let someone else do this?

18 MR. REEDER: Only if it's him. He's  
19 not running.

20 CHAIRMAN WARE: He said I could.

21 MS. ELLISTON: As long as he said you  
22 could, I'm fine with that.

23 CHAIRMAN WARE: I know very little  
24 about Robert's Rules of Order, but I was told by a lawyer

1 that I could. And that's offered only if you're willing to  
2 accept that nomination, Randall.

3 MR. CHRISTOPHER: Yes.

4 MR. MILLER: I make a motion  
5 nominations cease.

6 MR. DAY: So moved.

7 MR. CAINES: I'll second it.

8 CHAIRMAN WARE: So, do we have to---

9 MR. MILLER: And he be appointed by  
10 acclamation.

11 CHAIRMAN WARE: Do we have to call a  
12 vote for the motion that the nomination cease, or can we just  
13 call a vote on Randall as Chairman for next year?

14 MR. REEDER: We need the motion for the  
15 nomination to cease.

16 CHAIRMAN WARE: All in favor of that  
17 motion, let it be known by saying aye. Any opposition?

18 MR. DAY: Now we can elect him by  
19 acclamation now.

20 CHAIRMAN WARE: Just a motion for  
21 selection of Randall by acclamation.

22 MR. MILLER: So moved.

23 DR. HANEY: Second.

24 CHAIRMAN WARE: We have a motion and a

1 second. Any further discussion on that? All in favor, let  
2 it be known by saying aye. Opposition by a like sign.  
3 Motion carries for Randall Christopher as Chairman for 2009.

4 Now I'll open the floor for any  
5 nominations for Vice-Chairman for 2009. This can come in the  
6 form of any recommendations by anyone; or not having a  
7 recommendation, if anyone wishes to be considered for that  
8 position, we'll consider that.

9 MR. CAINES: I'd like to make a motion  
10 for Mike Miller.

11 MR. MORGAN: I'll second.

12 CHAIRMAN WARE: Got a motion and a  
13 second for Mayor Mike Miller to be Vice-Chairman for 2009.  
14 Any further nominations? If not, I will call for a vote then  
15 for Mike Miller as Vice-Chairman for the Authority for 2009.

16 DR. HANEY: So move.

17 CHAIRMAN WARE: All in favor, let it be  
18 known by saying aye. Any opposition by a like sign. Mayor  
19 Miller will be our Vice-Chairman for next year.

20 CHAIRMAN WARE: Steve, you indicated  
21 it's probably proper to keep the Treasurer and the Secretary  
22 as separate assignments?

23 MR. REEDER: Yes, sir. Currently  
24 Warner Caines is serving as both, but we did that pretty much

1 out of expediency because we thought we would need his  
2 signature for the bond sale. So, we just combined them  
3 because we didn't know who would have to sign what and we  
4 needed somebody pretty quickly.

5 CHAIRMAN WARE: We'll go with  
6 nominations for Treasurer for next year.

7 DR. HANEY: You probably need someone  
8 in the Frankfort area, or does it make that much difference?

9 MR. REEDER: Not terribly critical.  
10 It's always desirable for the same reasons I just got through  
11 saying if you had to have something done quickly.

12 CHAIRMAN WARE: Any nominations or  
13 volunteers for Treasurer?

14 MR. HAZELETTE: Mr. Chairman, I  
15 nominate Judge Collins.

16 CHAIRMAN WARE: As Treasurer. Okay.  
17 We have a nomination for Judge Ted Collins.

18 MR. MILLER: I'll second that.

19 CHAIRMAN WARE: And we have a second.  
20 Any further nominations? If not, I will call for a vote.  
21 All those in favor of Judge Ted Collins as Treasurer for the  
22 2009 year, let it be known by saying aye. Any opposition by  
23 a like sign? Congratulations, Judge Collins.

24 And, finally, Secretary. Any

1 nominations or volunteers for Secretary? Warner, would you  
2 want to continue in that capacity?

3 MR. CHRISTOPHER: Can he continue at  
4 that?

5 MR. REEDER: If you elect him, he can  
6 take it.

7 CHAIRMAN WARE: I'll nominate Warner as  
8 Secretary.

9 MR. MILLER: I'll second that.

10 CHAIRMAN WARE: Any further  
11 nominations? If not, we'll call for a vote. All those in  
12 favor of Warner Caines as Secretary for 2009, let it be known  
13 by saying aye. Any opposition by a like sign?

14 MR. REEDER: I would point out, Warner,  
15 that due to the disability of the Chairman and the Vice-  
16 Chairman at the same time, then, by Robert's Rules of Order,  
17 you have to serve as Chairman.

18 MR. CAINES: Okay.

19 CHAIRMAN WARE: Let me ask a question  
20 since Warner falls under that lame duck category, what's the  
21 best guess as to Warner's reappointment?

22 MR. REEDER: What we do, of course,  
23 we've had this situation come up before, but anybody who does  
24 not get reappointed or resigns from the Board or whatever, if

1 it's the Chairman, the Vice-Chairman becomes the Chairman for  
2 the rest of the year.

3 If it's another officer like the  
4 Secretary or Treasurer or the Vice-Chairman that becomes  
5 vacated for whatever reason, then, we just simply hold at our  
6 next meeting a special election to fill out the term.

7 CHAIRMAN WARE: So, I take it Rex and  
8 Warner haven't heard anything from the current administration  
9 with regard to their status?

10 MR. REEDER: No, sir, we have not. So,  
11 they're still serving by virtue of the provisions that allows  
12 a member to serve until reappointed or replaced.

13 CHAIRMAN WARE: Okay. We have a full  
14 slate of officers starting January 1.

15 Steve, have you got anything for the  
16 Director's Report?

17 MR. REEDER: I've got a couple of  
18 things. I want to bring this back to your attention.

19 You'll note in your folder here, look  
20 for a memo in there from me to Glenn Mitchell who serves as  
21 Secretary Miller's proxy on this Board. Of course, today  
22 Paul Gannoe is stepping in as Secretary Miller's proxy.

23 But I wrote to Glenn in his capacity as  
24 the number two official in the Finance Cabinet a memo styled

1 Lease for Kentucky River Lock and Dam 7 Hydro Facility. It's  
2 Randall Christopher's favorite subject and I believe the  
3 favorite subject of several more of you folks in here.

4 But we, as you know, executed a lease  
5 with the Lock 7 Hydro Partners after about two or three years  
6 of consideration, give and take and so forth, the old plant  
7 at Lock 7 that was once owned by KU. And it's been leased to  
8 them and there's a lot of federal preemptory power in the  
9 hands of the Federal Power Commission, or FERC as it's known,  
10 and we worked around a lot of things in that.

11 This lease was finally agreed to by  
12 both parties, this Board. The Governor even signed it. The  
13 Governor is required to sign it. Governor Beshear signed  
14 this thing. We got two happy parties. They're paying us a  
15 fee for it and they've got a lease and they're fixing up  
16 their hydro plant down there and they've even got most of it  
17 operating.

18 We got a letter and they got a letter  
19 the other day from the Federal Power Commission and said they  
20 don't like the lease, in effect, and they're the very  
21 provisions that we had some controversy over. And actually  
22 the people who leased it, they're pretty much in agreement  
23 with us. They don't really care.

24 But there's two or three things; and



1 when you read that thing, you will see what we're talking  
2 about. The Federal Power Commission is basically saying,  
3 look, under our rules, the lessee of a power plant has to  
4 control the entire pool of water.

5 Well, what does that mean? That's our  
6 pool of water. That's the City of Harrodsburg's pool of  
7 water. We control that. We've got controls on that lessee  
8 with regard to when they can run that plant so they won't run  
9 those people out of water.

10 They're complying with it. The lessees  
11 are agreeable to it and we've had no problems with that. So,  
12 that's a vague provision that I threw out early. I said I  
13 don't want any part of something that I don't understand what  
14 it is.

15 And then they've got another thing  
16 that's very disturbing that says that they want the lessee to  
17 be able to direct -- they, the Federal Power Commission --  
18 direct the lessee, who is the operators of that plant, to  
19 make any modifications, repairs or whatever to our facility  
20 without our permission.

21 Now, does that mean taking part of the  
22 dam out? What do they want done? I don't know that we can  
23 agree to that.

24 So, I've written Glenn. And there's

1 another couple of things in there that are not quite as  
2 important, but I wrote Glenn and asked him to turn it over to  
3 the Finance Department's legal division and let them look at  
4 it and maybe even the Attorney General to have him look at it  
5 because the Federal Power Commission has got a lot of power.

6                   And I asked the operators, I said, what  
7 are they going to do if we don't do anything? Are they going  
8 to cancel your license or what are they going to do? They  
9 don't know the answer to that, and that's what we need to  
10 find out.

11                   I do know this, that during the  
12 pendency of this business, we spent about \$30,000 on legal  
13 fees with a Washington, D.C. firm. And part of that wasn't  
14 all for this project but it was to address the overall  
15 problem of hydro plants in general so we would have some  
16 information. I offered to make that available to the Finance  
17 lawyers to review and see just what the extent of the Federal  
18 Power Commission's authority is.

19                   But right now, this is just  
20 informational. I'm not excited about redoing this lease with  
21 putting this stuff in. The lessees don't care. I'm sure  
22 that the Governor's Office is not excited about having to  
23 sign another piece of paper and neither is the Finance  
24 Secretary.

1                   So, we're going to just see how it's  
2 answered, but I talked to Glenn about it also and he said  
3 they were going to run it through their Department over there  
4 and just see what their lawyers thought about it.

5                   And I suggested maybe Attorney General  
6 Conway have a look at it, his people over there, because we  
7 can't afford to get into a fight right now financially over  
8 some of this stuff.

9                   But it is disturbing and I don't want  
10 to just do it without--really without being made to do it, to  
11 tell you the truth, because when you start giving up control  
12 of your own facility for something that has almost a contrary  
13 mission to it and, of course, they point out and there's been  
14 articles written in the paper that they passed House Bill 2  
15 over there this past year, and House Bill 2 says this. And  
16 House Bill 2 wasn't in effect when this Lock 7 lease was  
17 passed, but what it basically says is that we as a River  
18 Authority will promote hydroelectric power.

19                  Well that doesn't bother me because the  
20 people that wrote this bill called me before they wrote it,  
21 and that was the Sierra Club, and I said, look, I said our  
22 concern is the structural ability of this dam to hold the  
23 power plant, and I said most of them are really not and I  
24 would appreciate you putting that in the bill.

1                   And also there's restrictions in our  
2 lease, in our model lease which the bill directs us to do --  
3 we had already done it before the bill was passed when we  
4 carefully considered the model lease -- that allows us to  
5 curtail any use of those turbines or require them to curtail  
6 the use of those turbines when the water is low, when the  
7 water reaches crest or when one of those cities gets put on  
8 restrictions because those turbines can drain those pools  
9 pretty good, and the lessee here was agreeable to it.

10                   So, we have a pretty good model lease  
11 that we have done, and the people that wrote this bill -- and  
12 it was part of what they call the Administration's Green  
13 Bill. It was a great big bill. It had all kind of things in  
14 it. It was a real thick bill. This is just one thing in it.

15                   But they put that in there for me, and  
16 I said that's what I 've got to have, and I said we'll look  
17 at each case as it comes in here.

18                   So, that's for your information only.  
19 We will be back with you.

20                   I would point out that -- and I asked  
21 David to give me this the other day, pull it off the Internet  
22 -- that of our fourteen dams, there are about I think nine  
23 that have--no. There are eleven counting Dam No. 7 where  
24 companies other than these people that have the Lock 7 Hydro

1 Partners have applied for two licenses on two other dams but  
2 there's other people out West.

3                   They apply to the Federal Power  
4 Commission, and what they do, it's sort of like getting an  
5 oil lease. You go out and get an oil or gas lease somewhere  
6 where you don't ever intend to drill just in case you ever  
7 decide to do so or a competitor can't get in there on you.

8                   So, they frequently have done this kind  
9 of stuff, but it's still subject to final considerations.  
10 And once you get one of these preliminary licenses they call  
11 it -- it's not a real license -- once you get one of them,  
12 you get to keep it. It keeps anybody else away from it for  
13 three years.

14                   So, I'm not real concerned about those,  
15 but we do have a list of those things. And without these  
16 Federal Power credits and green credits and federal grants  
17 and all that kind of thing, people can't make much money off  
18 this stuff anyway. They can't build something like that's  
19 down at 7.

20                   And Warner Caines can tell you this.  
21 Warner's company, before he was the superintendent of it, the  
22 Frankfort Plant Board had considered one there at Frankfort,  
23 but it was just financially not feasible because there wasn't  
24 enough flow in the river to overcome the capital cost of it

1 for the megawatts you get out of them.

2                   So, those things are things you watch  
3 but you don't get real concerned about them. Right now,  
4 we've just got one; but this letter is not welcome by either  
5 party. The people running the plant don't like it either  
6 because we went through a lot of problems to do this and  
7 we'll get back with you.

8                   The other piece of information that I  
9 have, this is a personnel type announcement sort of. Sue Ann  
10 will be and already is working at Boonesborough. Earl, as  
11 you know, is going to retire this year, and I needed somebody  
12 in the field that I trust implicitly to be with our workers  
13 in the field. She already keeps their books and already  
14 works with them, plus Bob and I have talked about that she is  
15 going to have some additional duties.

16                   One thing we failed to do and I just  
17 never did do it because I didn't have anybody to do it was  
18 somebody who on some sort of a regular basis could call on  
19 our fee payors and particularly our major ones but also all  
20 of them and just let them have a face to identify with the  
21 organization because a lot of them just see us as sending  
22 them a tax bill or a fee bill and think they get nothing back  
23 out of it. If they've got any problems, I'd rather them tell  
24 us than go around behind our back some way.

1                   And, so, she is going to be doing that  
2 also, plus she will still be not lost to us in Frankfort in  
3 that she is going to be there one day a week. She is going  
4 to relieve Kayla Dempsey.

5                   Kayla is back to work now and she will  
6 relieve Kayla when there's a planned absence, vacation, a  
7 planned doctor visit or whatever. And, so, she will step  
8 into that and will not lose any steps there, retain some  
9 things that she does now anyway, just down here, down the  
10 road here.

11                  And I think one thing you might want to  
12 do, Sue Ann, is give these folks your numbers because a lot  
13 of you have developed a relationship just calling her  
14 directly on things, which is fine, and you can continue to do  
15 that and they will need your phone number over there. If you  
16 lose that, just call our office; and if she's not there, we  
17 will get it to her.

18                  So, that's really what I had, Mr.  
19 Chairman.

20                  CHAIRMAN WARE: Thank you, Steve. I  
21 have nothing to report other than I really enjoyed serving as  
22 Chair for the last three years and working with each of you  
23 and past Board members and with the staff. I have another  
24 year left on my appointment and I look forward to that year.

1 I think hopefully we'll have another productive year next  
2 year with all we have on our plate.

3 Is there any other business that any of  
4 the Board members want to bring up at this point in time that  
5 hasn't been discussed?

6 MR. DAY: We ought to give you a nice  
7 round of applause for your efforts.

8 CHAIRMAN WARE: Anybody in the audience  
9 have anything they want to bring before the Board? I will  
10 entertain a motion to adjourn before I turn things back over  
11 to Sue Ann.

12 MR. MILLER: So moved.

13 CHAIRMAN WARE: We are officially  
14 adjourned.

15 MEETING ADJOURNED

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STATE OF KENTUCKY  
COUNTY OF FRANKLIN

I, Terri H. Pelosi, a notary public in and for the state and county aforesaid, do hereby certify that the foregoing pages are a true, correct and complete transcript of the proceeding taken down by me in the above-styled matter taken at the time and place set out in the caption hereof; that said proceedings were taken down by me in shorthand and afterwards transcribed by me; and that the appearances were as set out in the caption hereof.

Given under my hand as notary public  
aforesaid, this the 8th day of December, 2008.

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Notary Public  
State of Kentucky at Large

My commission expires February 10, 2009.